

Attorney's Docket No. 033339/235735

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Franchand-Bunel et al.

Confirmation No.: 8981

Appl. No.: 09/868,399

Group Art Unit: 1645

Filed: July 12, 2001

For: DETECTING AND MONITORING HIV INFECTIONS

RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE

Mail Stop Sequence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Notification of Defective Response dated August 8, 2003.

Please replace the paper and computer readable copies of the Sequence Listing presently on file in the present application with the accompanying substitute sheets 1-2 of the paper Sequence Listing and the substitute computer-readable form submitted concurrently herewith.

I hereby state that the content of the paper and computer readable copies of the Sequence Listing submitted concurrently herewith in accordance with 37 C.F.R. §1.825(b) is the same and includes no new matter.

REMARKS

The August 8, 2003 Notification of Defective Response states that the nucleotide and/or amino acid sequence disclosure in this application does not comply with 37 C.F.R. §1.821-1.825 because it has been found damaged or unreadable. The accompanying attachment (copy enclosed) states that "not all of the disclosed sequences have been included in the CRF".

The accompanying substitute paper copy and computer readable form of the Sequence Listing includes the original sequence for HIV-POL, which appeared in the original submission, and now additionally includes the sequence for MIXO(HIV-POL), both of which appear in Figure 1 of the drawings as originally filed.

It is believed that the paper and computer readable Sequence Listing as submitted herewith is in full compliance with all applicable requirements of 37 C.F.R.

Applicants' attorney notes that the Notification of Defective Response also makes reference at the bottom of the first page to a requirement for an oath or declaration of the inventors in compliance with 37 C.F.R. 1.497(a) and (b). However, the Notification fails to specify why the current oath or declaration does not comply.

Applicants' Attorney respectfully points out that the Decision dated 20 March 2003 states that in view of the inventorship correction that has been made, the original declaration filed 12 July 2001 is in compliance with 37 C.F.R. 1.497(a) and (b).

Through numerous telephone calls, we have attempted to obtain clarification from Charitta A. Burt as to the specific deficiencies, if any, in the declaration. However, we have been unable obtain any clarification. Applicants' attorney believes that the reference in the 8 August 2003 Notification to a defective oath or declaration is in error, and that the original declaration is in compliance, for the reasons given above and in the Decision dated 20 March 2003. However, if there is indeed a problem with the declaration presently on file, we respectfully request a full and complete explanation of why the declaration is not in compliance, and an opportunity to respond.

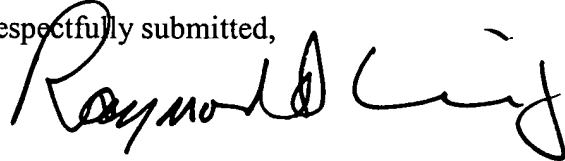
In re: Franchand-Bun et al.

Appl. No. 09/868,399

Filed: July 12, 2001

Page 3

Respectfully submitted,



Raymond O. Linker, Jr.

Attorney for Applicant

Registration No. 26,419

CUSTOMER NO. 00826

ALSTON & BIRD LLP

Bank of America Plaza

101 South Tryon Street, Suite 4000

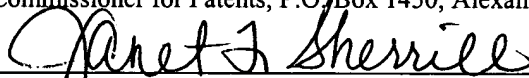
Charlotte, NC 28280-4000

Tel Charlotte Office (704) 444-1000

Fax Charlotte Office (704) 444-1111

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Sequence,
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 5, 2003



Janet F. Sherrill

ROL



Alston & Bird

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 13 2003

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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U.S. APPLICATION NUMBER NO.	Received By FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/868,399	Denis Tranchand-Bunel	33339/235735

000826

ALSTON & BIRD LLP
 BANK OF AMERICA PLAZA
 101 SOUTH TRYON STREET, SUITE 4000
 CHARLOTTE, NC 28280-4000



INTERNATIONAL APPLICATION NO.

PCT/FR99/03311

I.A. FILING DATE

12/29/1999

PRIORITY DATE

12/31/1998

CONFIRMATION NO. 8981

371 FORMALITIES LETTER



OC000000010664461

Date Mailed: 08/08/2003

NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

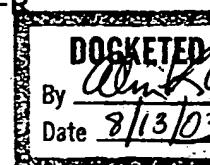
- Priority Document
- Copy of the International Application filed on 06/18/2001
- English Translation of the IA filed on 06/18/2001
- Copy of the International Search Report filed on 06/18/2001
- Copy of IPE Report filed on 06/18/2001
- Preliminary Amendments filed on 06/18/2001
- Information Disclosure Statements filed on 06/18/2001
- Biochemical Sequence Diskette filed on 06/18/2001
- Oath or Declaration filed on 07/12/2001
- Biochemical Sequence Listing filed on 06/18/2001
- Request for Immediate Examination filed on 06/18/2001
- Copy of references cited in ISR filed on 06/18/2001
- U.S. Basic National Fees filed on 06/18/2001
- Priority Documents filed on 11/15/2002

Applicant's response filed 03/20/2003 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 12/21/2001 have not been completed.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR



1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

The following items **MUST** be furnished within the period set forth below:

- The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):
 - The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).
 - **APPLICANT MUST PROVIDE:**
 - An initial or substitute computer readable form (CRF) of the "Sequence Listing."
- For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:
 - For Rules Interpretation, call (703) 308-4216
 - To Purchase PatentIn Software, call (703) 306-2600
 - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

CHARITTA A BURT

Telephone: (703) 305-3734

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
09/868,399	PCT/FR99/03311	33339/235735

COUNT SHEET FOR SEQUENCE CASES

Serial No. 09/868399

AE _____

Date of Count _____

Mark only one space below

(CRFN) (CRF is unreadable; use CRF Diskette
Problem Report)

✓

(CRFD) (CRF does not comply; use Notice to
Comply)

(CRFR) (CRF required but none submitted;
use Notice to Comply)

(bona fide) (second or subsequent letter to applicant
reporting bona fide attempt to comply;
use Notice to Comply and send copy
of RSL)

(non bona fide) (second or subsequent letter to
applicant reporting non-bona fide
attempt to comply; use Notice to
Comply and send copy of RSL)

Examiner STUCKER

GAU: 1648

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING
NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821 - 1.825 for the following reason(s):

☒ 1. This application clearly fails to comply with the requirements of 37 CFR 1.821 - 1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.

☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 CFR 1.821(c).

☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e).

☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 CFR 1.822 and/or 1.823, as indicated on the attached copy of the marked-up "Raw Sequence Listing."

☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 CFR 1.825(d).

☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e).

☒ 7. *not all of the disclosed sequences have been included in the CRF*
Other: _____

Applicant must provide:

☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing"

☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification

☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 CFR 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d)

For questions regarding compliance with these requirements, please contact:

For Rules Interpretation, call (703) 308-1123
For CRF submission help, call (703) 308-4212
For PatentIn software help, call (703) 557-0400

Please return a copy of this notice with your response.